

nearest to the point of offloading (contact the Regional Director for locations and phone numbers) and accurately provide the following information prior to the departure of their vessel from the dock to fish for surf clams or ocean quahogs in the EEZ: Name of the vessel; NMFS permit number assigned to the vessel; expected date and time of departure from port; whether the trip will be directed on surf clams or ocean quahogs; expected date, time, and location of landing; and name of the individual providing notice.

(2) Owners or operators that have given notification of a fishing trip under this paragraph (b) who decide to cancel or postpone the trip prior to departure must immediately provide notice of cancellation by telephone to the Office of Law Enforcement to which the original notification was provided. A separate notification shall be provided for the next fishing trip. Owners or operators that discontinue a fishing trip in the EEZ must immediately provide notice of discontinuance by telephone to the Office of Law Enforcement to which the original notification was provided. The owner or operator providing notice of discontinuance shall advise of any changes in landing time or port of landing. The owner or operator discontinuing a fishing trip in the EEZ must return to port and offload any surf clams or ocean quahogs prior to commencing fishing operations in the waters under the jurisdiction of any state.

(3) The vessel permits, the vessel, its gear, and catch shall be subject to inspection upon request by an authorized officer.

#### § 648.16 Penalties.

See § 600.735.

### Subpart B—Management Measures for the Atlantic Mackerel, Squid, and Butterfish Fisheries

#### § 648.20 Maximum optimum yield (OYs).

The OYs specified pursuant to § 648.21 during a fishing year may not exceed the following amounts:

(a) Mackerel—that quantity of mackerel that is less than or equal to the al-

lowable biological catch (ABC) in U.S. waters specified pursuant to § 648.21.

(b) *Loligo*—36,000 mt (79,362,000 lb).

(c) *Illex*—30,000 mt (66,135,000 lb).

(d) Butterfish—16,000 mt (35,272,000 lb).

#### § 648.21 Procedures for determining initial annual amounts.

(a) *Initial recommended annual specifications.* The Atlantic Mackerel, Squid, and Butterfish Monitoring Committee (Monitoring Committee) shall meet annually to develop and recommend the following specifications for consideration by the Mackerel, Squid, and Butterfish Committee of the MAFMC: (1) Initial OY (IOY), domestic annual harvest (DAH), and domestic annual processing (DAP) for the squids; (2) IOY, DAH, DAP, and bycatch level of the total allowable level of foreign fishing (TALFF), if any, for butterfish; and (3) IOY, DAH, DAP, joint venture processing (JVP), if any, and TALFF, if any, for mackerel. The Monitoring Committee may also recommend that certain ratios of TALFF, if any, for mackerel to purchases of domestic harvested fish and/or domestic processed fish be established in relation to the initial annual amounts.

(b) *Guidelines.* As the basis for its recommendations under paragraph (a) of this section, the Monitoring Committee shall review available data pertaining to: Commercial and recreational landings, discards, current estimates of fishing mortality, stock status, the most recent estimates of recruitment, virtual population analysis results, levels of noncompliance by harvesters or individual states, impact of size/mesh regulations, results of a survey of domestic processors and joint venture operators of estimated mackerel processing capacity and intent to use that capacity, results of a survey of fishermen's trade associations of estimated mackerel harvesting capacity and intent to use that capacity, and any other relevant information. The specifications recommended pursuant to paragraph (a) of this section must be consistent with the following:

(1) *Squid.* (i) The ABC for any fishing year must be either the maximum OY specified in § 648.20, or a lower amount, if stock assessments indicate that the

potential yield is less than the maximum OY.

(ii) IOY is a modification of ABC based on social and economic factors.

(2) *Mackerel.* (i) Mackerel ABC must be calculated from the formula  $ABC = S - C - T$ , where C is the estimated catch of mackerel in Canadian waters for the upcoming fishing year; S is the mackerel spawning stock size at the beginning of the year for which quotas are specified; and T, which must be equal to or greater than 900,000 mt (1,984,050,000 lb), is the spawning stock size that must be maintained in the year following the year for which quotas are specified.

(ii) IOY is a modification of ABC, based on social and economic factors, and must be less than or equal to ABC.

(iii) IOY is composed of DAH and TALFF. DAH, DAP, and JVP must be projected by reviewing data from sources specified in paragraph (a) of this section and other relevant data, including past domestic landings, projected amounts of mackerel necessary for domestic processing and for joint ventures during the fishing year, projected recreational landings, and other data pertinent for such a projection. The JVP component of DAH is the portion of DAH that domestic processors either cannot or will not use. In addition, IOY is based on the criteria set forth in the Magnuson Act, specifically section 201(e), and on the following economic factors:

(A) Total world export potential by mackerel producing countries.

(B) Total world import demand by mackerel consuming countries.

(C) U.S. export potential based on expected U.S. harvests, expected U.S. consumption, relative prices, exchange rates, and foreign trade barriers.

(D) Increased/decreased revenues to the United States from foreign fees.

(E) Increased/decreased revenues to U.S. harvesters (with/without joint ventures).

(F) Increased/decreased revenues to U.S. processors and exporters.

(G) Increases/decreases in U.S. harvesting productivity due to decreases/increases in foreign harvest.

(H) Increases/decreases in U.S. processing productivity.

(I) Potential impact of increased/decreased TALFF on foreign purchases of U.S. products and services and U.S.-caught fish, changes in trade barriers, technology transfer, and other considerations.

(3) *Butterfish.* (i) If the Monitoring Committee's review indicates that the stock cannot support a level of harvest equal to the maximum OY, the Monitoring Committee shall recommend establishing an ABC less than the maximum OY for the fishing year. This level represents the modification of maximum OY to reflect biological and ecological factors. If the stock is able to support a harvest level equivalent to the maximum OY, the ABC must be set at that level.

(ii) IOY is a modification of ABC based on social and economic factors. The IOY is composed of a DAH and bycatch TALFF that is equal to 0.08 percent of the allocated portion of the mackerel TALFF.

(c) *Recommended measures.* Based on the review of the data described in paragraph (a) of this section, the Monitoring Committee will recommend to the Squid, Mackerel, and Butterfish Committee the measures it determines are necessary to assure that the specifications are not exceeded from the following measures:

(1) Commercial quotas.

(2) The amount of *Loligo* and butterfish that may be retained, possessed and landed by vessels issued the incidental catch permit specified in § 648.4(a)(5).

(3) Commercial minimum fish sizes.

(4) Commercial trip limits.

(5) Commercial seasonal quotas.

(6) Minimum mesh sizes.

(7) Commercial gear restrictions.

(8) Recreational harvest limit.

(9) Recreational minimum fish size.

(10) Recreational possession limits.

(11) Recreational season.

(d) *Annual fishing measures.* (1) The Squid, Mackerel, and Butterfish Committee shall review the recommendations of the Monitoring Committee. Based on these recommendations and any public comment received thereon, the Squid, Mackerel, and Butterfish Committee shall recommend to the MAFMC appropriate specifications and any measures necessary to assure that

the specifications will not be exceeded. The MAFMC shall review these recommendations and based on the recommendations and any public comment received thereon, the MAFMC shall recommend to the Regional Director appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Director shall review the recommendations, and on or about November 1 of each year, shall publish notification in the FEDERAL REGISTER proposing specifications and any measures necessary to assure that the specifications will not be exceeded and providing a 30-day public comment period. If the proposed specifications differ from those recommended by the MAFMC, the reasons for any differences shall be clearly stated and the revised specifications must satisfy the criteria set forth in this section. The MAFMC's recommendations shall be available for inspection at the office of the Regional Director during the public comment period.

(2) On or about December 15 of each year, the Assistant Administrator will make a final determination concerning the specifications for each species and any measures necessary to assure that the specifications will not be exceeded contained in the FEDERAL REGISTER notification. After the Assistant Administrator considers all relevant data and any public comments, notification of the final specifications and any measures necessary to assure that the specifications will not be exceeded and responses to the public comments will be published in the FEDERAL REGISTER. If the final specification amounts differ from those recommended by the MAFMC, the reason(s) for the difference(s) must be clearly stated and the revised specifications must be consistent with the criteria set forth in paragraph (b) of this section.

(e) *Inseason adjustments.* The specifications established pursuant to this section may be adjusted by the Regional Director, in consultation with the MAFMC, during the fishing year by

publishing notification in the FEDERAL REGISTER stating the reasons for such an action and providing a 30-day comment public comment period.

#### **§ 648.22 Closure of the fishery.**

(a) *General.* The Assistant Administrator shall close the directed mackerel or *Loligo* or *Illex* squid or butterfish fishery in the EEZ when U.S. fishermen have harvested 80 percent of the DAH, of that fishery if such closure is necessary to prevent the DAH from being exceeded. The closure shall remain in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section, until the entire DAH is attained. When the Regional Director projects that DAH will be attained for any of the species, the Assistant Administrator shall close the fishery in the EEZ to all fishing for that species, and the incidental catches specified in paragraph (c) of this section will be prohibited.

(b) *Notification.* Upon determining that a closure is necessary, the Assistant Administrator will notify, in advance of the closure, the Executive Directors of the MAFMC, NEFMC, and SAFMC; mail notification of the closure to all holders of mackerel, squid, and butterfish fishery permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of closure in the FEDERAL REGISTER.

(c) *Incidental catches.* During the closure of a directed fishery, the trip limit for the species for which the fishery is closed is 10 percent, by weight, of the total amount of fish on board for a vessel with a *Loligo*/butterfish moratorium permit or *Illex* or a mackerel commercial permit. During a period of closure of the directed fishery for *Loligo* or butterfish, the trip limit for a vessel with an incidental catch permit for those species is 10 percent, by weight, of the total amount of fish on board, or the allowed level of incidental catch specified in § 648.4(e)(2), whichever is less.